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125 SOUTH STATE STREET

SALT LAKE CITY, UTAH 84138

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SEP 20 1993

WATER RIGHTS
SALT LAKE

September 17, 1993

Robert L. Morgan, P.E.
State Engineer
Utah Department of Natural Resources
Division of Water Rights
1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156

Dear Mr. Morgan,

I write on behalf of the United States Bureau of Land Management, Utah State Office, (BLM) to request formal administration of the water rights on Grassy Trail Creek in Carbon County, pursuant to Utah Code 73-2-1. The BLM is the owner of fifteen senior water rights on Grassy Trail Creek which are being seriously injured, as discussed below, by upstream junior appropriators. This injury is occurring in violation of BLM's water rights, contrary to the express provisions of U.C. 73-3-21. Should the situation require it, the BLM also asks that the upstream junior appropriators be required to install measuring devices under U.C. 73-5-4, in order to be sure that they divert only that water to which they are entitled after downstream senior rights are satisfied. The grounds for this request follow.

On July 7, 1993, three BLM employees visited the diversion structure on Grassy Trail Creek located in T. 15 S., R. 14 E., section 6 in the City of Sunnyside, Utah, and observed that the entire flow of the creek was being diverted, leaving Grassy Trail Creek completely dry downstream of the diversion structure. At 1200 hours on that date, they took a discharge measurement upstream of the diversion structure and the flow rate was calculated at 1.2 cubic feet per second (cfs).

The diverted flow was observed to be divided into two channels downstream from the diversion structure. The left channel takes flow apparently to the property of Sunnyside Cogeneration Associates. The right channel has a flume in place in the channel. The BLM employees measured the flume and found it to be a 1 foot Parshall-type flume. At 1130 hours on July 7, 1993, a reading of .28 was observed on the staff gauge in the flume, which in a 1 foot Parshall flume equates to a discharge of .5763 cfs. (Table 12-6: 1 ft. Parshall Flume Discharge Table, page 255, Isco Open Channel Flow Measurement Handbook Third Edition by Douglas M. Grant, Divisional General Manager, Isco Environmental Division, Lincoln, Nebraska, copyright 19189 by Isco, Inc.) The flow in the left

channel was estimated to be .62 cfs by subtracting .5763 cfs observed in the right channel from the 1.2 cfs measured in Grassy Trail Creek upstream of the diversion structure. Field notes and photographs taken at the time of the above-described observations are available, should you wish to inspect them. Similar observations were made on July 19, and July 22, 1993, as well as other occasions. The diversion of all the flow in this manner appears to be intentional and is in complete derogation of downstream senior water rights.

The BLM holds the following diligence water rights on Grassy Trail Creek downstream of the above-mentioned diversion:

Number	Page	Use	Period	Quantity	Priority
91-3757	1280	Livestock	1/1 - 12/31	0.002 cfs	1869✓
91-3335	1270	Livestock	1/1 - 12/31	0.003 cfs	1869✓
91-3755	1271	Livestock	1/1 - 12/31	see 91-3335	1869✓
91-3756	1282	Livestock	1/1 - 12/31	see 91-3335	1902✓
91-2268	1270	Livestock	1/1 - 12/31	0.008 cfs	1869✓
91-2380	1271	Livestock	1/1 - 12/31	see 91-3335	1869✓
91-3540	1281	Livestock	1/1 - 12/31	see 91-3335	1860*✓
91-4659	na	Lvstck/wldlf	1/1 - 12/31	0.005+ cfs	1860*✓
91-3340	1324	Livestock	1/1 - 12/31	see 91-3338	1869✓
91-3345	1342	Livestock	1/1 - 12/31	0.011 cfs	1869✓
91-3344	1343	Livestock	1/1 - 12/31	0.001 cfs	1869✓
91-3338	1274	Livestock	1/1 - 12/31	0.015 cfs	1869✓
91-2467	1343	Livestock	1/1 - 12/31	see 91-3345	1869✓
91-3342	1324	Livestock	1/1 - 12/31	0.006 cfs	1869
91-3339	1275	Livestock	1/1 - 12/31	see 91-3338	1869

0.051 cfs ⇒ 22.9 gpm.

The water rights marked with an asterisk after the priority year are the two oldest water rights on Grassy Trail Creek and thus enjoy absolute protection. U.C. § 73-3-21, as we understand its interpretation under Utah law.

All of the BLM water rights are for year-round use, enabling BLM to have the necessary flexibility to rotate seasons and specific grazing areas in order to prevent overgrazing and prevent excessive erosion. Wildlife, of course, would utilize lower Grassy Trail Creek year-round, provided that water was available. It was these facts that prompted the field investigations described above.

In addition, that portion of water from Grassy Trail Creek that has historically recharged the shallow groundwater aquifer south of Grassy Trail Creek (approximately half of the discharge measured on July 7, 1993) is being diverted out of the aquifer and lost from the system, due to the 100% consumptive use to which most of the water is being applied. Wells also are depleting this aquifer, all of which, as mentioned above, are junior in priority to BLM's water rights. We fear that a sustained decrease in recharge to the aquifer will eventually result in decreased flow in lower Grassy Trail Creek, where BLM has its water rights, as well as decreased flow to the springs feeding the Mud Springs

wetland/riparian area, where BLM has spent a great deal of time and money restoring those resources. The unauthorized diversions from Grassy Trail Creek could thus have the effect of drying up these wetland areas and are contrary to the public interest. This alone would be adequate cause to request administration under Bonham v. Morgan, 788 P.2d 497 (1989).

The BLM therefore requests administration of Grassy Trail Creek, so that sufficient water is allowed to bypass any and all upstream diversion structures to assure that the quantities necessary to satisfy BLM's water rights actually arrive at the points where they are to be used.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Scott Loveless".

A. Scott Loveless
Attorney-advisor

cc: Mayor Paul Clark, East Carbon City
Fred Finlinson, Esq.
Sunnyside Cogeneration Assoc.



12E

13E

14E

AS

15S

16S

17S

		SC
<p>BLM BLM .003 *</p> <p>BLM .015 BLM O</p>	<p>BLM BLM * *</p> <p>BLM .002</p>	SC
<p>BLM O</p> <p>BLM .006</p>		
	<p>BLM .011 .01 BLM □</p>	

SUNNYSIDE COGENERATION = SC

BUREAU OF LAND MANAGE. = BLM

6 5 4 3 2 1
7 8 9 10 11 12
18 17 16 15 14 13
19 20 21 22 23 24
30 29 28 27 26 25
31 32 33 34 35 36

* INC. IN ^{.003 OPS} FLOW FOR SEC 10 15S, 12E

O INC. IN .015 OPS FOR SEC 21, 15S, 12E.
FLOW

□ INC. IN .011 OPS FOR SEC. 5, 717S, 12E
FLOW

NAME	SEC TOWN RANG BASE	APPLICATION NUMBER	CERTIFICATE NUMBER	WATER RIGHT NUMBER	STATUS/ TYPE	DIRECT SOURCE

Sunnyside Coal Company	7 14S 14E SL	A20409	5901	91- 178	CERT	Grassy Trail Creek
Sunnyside Coal Company	7 14S 14E SL	A5260	808	91- 28	CERT	Grassy Trail Creek
Sunnyside Coal Company	7 14S 14E SL			91- 369	DEC	Grassy Trail Creek
Sunnyside Coal Company	7 14S 14E SL			91- 3521	DIL	Grassy Trail Creek
Sunnyside Cogeneration Associates	6 15S 14E SL			91- 3524	DIL	Grassy Trail Creek
Sunnyside Cogeneration Associates	7 14S 14E SL	A19136	5670	91- 159	CERT	Grassy Trail Creek
Sunnyside Cogeneration Associates	7 14S 14E SL	A12554	4137	91- 118	CERT	Grassy Trail Creek
Sunnyside Cogeneration Associates	7 14S 14E SL	A15621	5684	91- 145	CERT	Grassy Trail Creek
Sunnyside Cogeneration Associates	6 15S 14E SL			91- 3522	DIL	Grassy Trail Creek
Sunnyside Cogeneration Associates	7 14S 14E SL			91- 361	DEC	Grassy Trail Creek
Sunnyside Cogeneration Associates	7 14S 14E SL	A19041	7792	91- 158	CERT	Grassy Trail Creek
Sunnyside Cogeneration Associates	07 14S 14E SL		a556	91- 372	DEC	Grassy Trail Creek
Sunnyside Cogeneration Associates	7 14S 14E SL	A15620	5510	91- 143	CERT	Grassy Trail Creek
Sunnyside Cogeneration Associates (SCA)	7 14S 14E SL	t93-91-06		91- AREA	UNAP	Grassy Trail Creek
Sunnyside Cogeneration Associates (SCA)	7 14S 14E SL	t93-91-04		91- AREA	UNAP	Grassy Trail Creek
USA Bureau of Land Management	10 15S 12E SL			91- 3335	DIL	Grassy Trail Creek
USA Bureau of Land Management	11 15S 12E SL			91- 3755	DIL	Grassy Trail Creek
USA Bureau of Land Management	21 15S 12E SL			91- 3338	DIL	Grassy Trail Creek
USA Bureau of Land Management	5 17S 13E SL			91- 3345	DIL	Grassy Trail Creek
USA Bureau of Land Management	9 17S 13E SL			91- 2467	DIL	Grassy Trail Creek
USA Bureau of Land Management	5 17S 13E SL			91- 3344	DIL	Grassy Trail Creek
USA Bureau of Land Management	10 15S 12E SL			91- 2380	DIL	Grassy Trail Creek
USA Bureau of Land Management	3 16S 12E SL			91- 3340	DIL	Grassy Trail Creek
USA Bureau of Land Management	6 15S 13E SL			91- 3756	DIL	Grassy Trail Creek
USA Bureau of Land Management	11 16S 12E SL			91- 3342	DIL	Grassy Trail Creek
USA Bureau of Land Management	10 15S 12E SL			91- 2268	DIL	Grassy Trail Creek
USA Bureau of Land Management	27 15S 12E SL			91- 3339	DIL	Grassy Trail Creek
USA Bureau of Land Management	3 15S 13E SL			91- 3757	DIL	Grassy Trail Creek
USA Bureau of Land Management	5 15S 13E SL			91- 3540	DIL	Grassy Trail Creek
Wellington Cattle Association	1 15S 12E SL			91- 3753	DIL	Grassy Trail Creek